

**Brownfields Study Group Meeting
GEF 2 Building, Madison
June 21, 2002**

I. Attendees

John Antaramian, City of Kenosha
Sue Bangert, DNR
Kendra Bonderud, Leg. Fiscal Bureau
Loren Brumberg, DNR
Beverly Craig, Milwaukee Ec. Dev. Corp.
Kathy Curtner, DNR
Laurie Egge, DNR
Darsi Foss, DNR
Nancy Frank, UW-Milwaukee
Judy Gibbon, DNR
Mark Giesfeldt, DNR
Carol Godiksen, American Council of
Engineers Companies of WI
Matt Haessly, City of Milwaukee
Art Harrington, Godfrey & Kahn (via phone)
Bruce Keyes, Foley and Lardner
Larry Kirch, City of La Crosse

Dan Kolberg, DNR
Lee Madden, Fiore Comp., Inc.
Kate Mawdsley, DOA
Jessica Milz, DNR
Tom Mueller, TEMCO
Lance Potter, DNR
Al Rabin, Commerce
Joe Renville, DNR
Andrew Savagian, DNR
Jason Scott, Department of Commerce
Jennifer Sunstrom, WI Counties Assn.
Jim Schmidt, DNR
Sam Tobias, Fond du Lac County
John Stibal, City of West Allis
Joy Stieglitz, Vandewalle & Assoc.
Mark Thimke, Foley and Lardner
Mark Werner, DHFS

II. Welcome, Introduction, Agenda Repair

III. Study Group Overview – Discussion

Status of Past Recommendations: What To Do?

Darsi Foss from DNR gave brief overview of items in the budget and why some policy items got taken out; it's up to the Study Group members here what they'd like to do with those items not in the budget

John Stibal: why not put these proposals back in; we recommended them before to the Legislature, we should do it again

Tom Mueller: I agree, though I'm not sure if the Study Group has a feel yet for HOW we want to submit these items, but we should submit something

Foss: we certainly can put these things through the DNR budget process, but I can't speak for the other agencies

Stibal: wouldn't it be better to submit something from the Study Group versus having someone introduce it as separate legislation?

Kathy Curtner: what's the state agency/budget schedule like?

Lance Potter: for the DNR, we're finalizing things in early September, and DOA will get the majority of state agency budgets end of September, then they introduce the budget end of January, then of course it goes to the Joint Finance Committee of the Legislature

Bruce Keyes: in all likelihood, we could introduce stand-alone legislation as a brownfields bill and it would be much quicker

Mark Thimke: though a brownfields bill would almost have to be revenue neutral given the current budget state we're in

Curtner: Lance, if they put in something that's revenue neutral does it run on a different schedule?

Kendra Bonderud: there are limits to what the Legislature can do before the budget passes with bills that have appropriations, changes in revenues or changes in expenditures; the Legislature has a certain amount of flexibility regarding bills that do not have fiscal effects or budget implications

Mueller: if we've got revenue issues, we should get them in the budget process right away; for the non-revenue or revenue-neutral areas, we maybe should look for separate legislation

Stibal: why don't we submit the fiscal items as a budget report first, then submit another report with the policy issues

Potter: now is the time you would want to do that; the DNR, for example, is already working on its budget items as we speak

Thimke: for new issues, with some of the political changes that may happen, we may want to issue some type of white paper after the November elections

Foss: that's something the group may want to consider; maybe submit something later in the calendar year

Curtner: I like Tom's idea about the Study Group packaging the old revenue items and asking the various departments to consider them; then later, maybe in December, submit any new/old policy proposals and any new revenue proposals; then the old revenue items should fit in with agencies' timing on the budget

STUDY GROUP AGREED TO:

- put something together (e.g. letter, report) by August to go to all relevant state agencies for inclusion in their budget process; it will include the group's past fiscal proposals for brownfields; also, there should be separate cover letters for each of the affected agencies
- Study Group will then meet in late summer/early fall and come up with future proposals – both policy and budget related – for inclusion in a letter/report to State Legislature and state agencies by December

TASKS AND TIME LINE:

- DNR will email for review draft of past fiscal items Study Group wants includes in the next two of weeks (end of June/early July);
- after a two week comment period, DNR will finalize and send out with cover letters on behalf of the Study Group

Where to from here?

Study Group briefly discussed this agenda item, but preferred to revisit the issue at the end of the meeting, including summary of tasks, deadlines and planning the next meeting

Thimke: I think we've made a lot of positive change in the program and moving things along; I still see value in seeing how the programs are being implemented, especially to know regionally how the work's being done; we've got a lot of good legislation, and I think we're still trying to make this a process that eliminates the transactional hurdles and moves these sites forward

Break

IV. State Agency Updates

Department of Natural Resources

Brownfield Site Assessment Grant (Jessica Milz)

Jessica Milz: gave brief update on DNR's BF Site Assessment Grant; 103 grants awarded for more than \$3.1 million

Mueller: Study Group may need to address the "known causer" language in the rules; adding this language was a good idea, but it makes it difficult some times for applicants to get things done

Foss and Jason Scott: Study Group needs to consider that both this grant and the Commerce grant funding is not continual, but only for this biennium; need to consider whether you want to continue with the funding, for how much and for how long

Brownfields Green Space and Public Facilities Grant Program Updates (Milz)

Milz: new rule, Ch. NR 173, being created; hope to get the applications out in late summer and award in late January or February

Keyes: what about if you end up underfunding? Do you have an agreement with those last in line that they could get that money, or to those recipients who do not have their initial requests fully funded?

Curtner: it's worth thinking about, and it doesn't sound like it's anything illegal or that we can't do; you also could give it to those with any cost overruns; it's something to look at

Land Recycling Loan (Kathy Curtner)

Curtner: gave brief summary of the Land Recycling Loan Program

- *so far have closed three loans at \$6.8 million; currently have balance of \$13.1 million;

- *have 3 communities on the current funding list asking for more than \$10.2 million; they have to close by 12/31 of this year to get the money; if they don't close funds will be allocated to FY '03

- *received 12 Intent to Apply notices totaling \$14.97 million

John Antaramian: how far along are the modifications to the loan program promised by the Secretary?

Curtner: not very far along

Antaramian: so the Study Group needs to go back to the secretary and ask for an update on the progress of this program

Keyes: question to John Stibal -- what's your experience with the program? Does it work? Are these changes needed?

Stibal: we're still working on it; eminent domain slows you down a bit

Mueller: we're working with West Allis; yes, the loan program is workable, but obviously we need the changes made; staff have really put a lot of time and effort into this, but changes need to happen to be more usable; I don't think it's in the same shape it was in two years ago; we've got some loans and staff are willing to work

Tom: a lot of issues/areas with the loan program are untested; in West Allis, for example, its an eminent domain situation and in the other two loans its multiple contiguous sites; and the DNR does allow you to re-submit

Loren Brumberg: can the Department post who's filed the grants and the Intent To Applies on the DNR's web site?

Curtner: It's in the newsletter, which we post on the web site

Waste Streamlining (Sue Bangert)

Sue Bangert: gave update on the waste streamlining effort undertaken by the DNR's Waste and Remediation and Redevelopment programs

- *there were links sent out via email to the Study Group and we have copies of the fact sheets if you need them
- *the purpose was to deal with RR/Waste issues as they relate to fill sites, lay out some guidelines, establish some consistency with the principles Sue and Mark Giesfeldt layed out three years ago with moving these sites forward
- *BF Study Group broached this subject in a few years ago and two programs have been working together to resolve these issues since that time
- *a cross-program work group from RR and Waste was created; Gene Mitchel and Mark Gordon were co-leads on this
- *fact sheets provide overview, talk about expedited review process and, if the site is more complex, what's required; there the process becomes a bit lengthier but DNR is committed to a time frame to process these sites
- *flow chart gives a good explanation on the step-by-step process; also there's additional guidance on how to investigate these sites
- *last fact sheet discusses potential issues – methane gas emissions, surface/groundwater issues, etc., and gives tips to consultants/owners to help investigate and remediate these sites
- *RR/Waste had a joint staff training earlier this year once the process was completed; announced to the public May 1; info is now available to staff on both program's web sites

Thimke: Any reaction from consultant community? Until we hear from the consultants we're unsure of the success

Bangert: we did get input during the process, and we're very interested hearing back from the public, but to this point we haven't heard anything

Brumberg: it's also important to note that that some of that certification language was softened

Jim Schmidt: we want to continue to check in on feedback; so far we have one site in the Northeast Region trying to use the new process

Art Harrington: one of the recommendations that didn't get into the current budget and should be included in the Study Group's December report is about expanding the municipal exemption to exempt eligible municipal entities from the solid waste provisions; has Waste Program looked at that?

Bangert: not recently, but we assume we will be looking at it again once the Study Group proposes it

Foss: need to clarify that this exemption was a limited one

Bangert: also, the Waste program has new DNR attorney, Dan Graefe; worked on non-metallic mining issues before; Deb Johnson is still the DNR attorney working on haz. waste issues

Bangert: for hazardous waste issues

- *RR's Mark Gordon finished internal guidance on hazardous waste and the issues with EPA have been resolved; there is an internal guidance document that Gordon and John Melby from Waste have drafted; hopefully that will be resolved soon and both programs will be done and we can implement that soon

- *we expect broader internal review next month, and a responsiveness summary will be prepared to respond internally to comments

- *we will share with stakeholders, including the Study Group, and will also be meeting with staff to discuss as well as meet with interested members from this group before guidance is final

- *also will be communicating with EPA and offering to meet with them and sit down before agreements are signed

- *will do training again with both staff once it's final

Thimke: we've been working on this for awhile; this needs to be done on an expedited schedule because it continues to hang up legitimate projects and we've got to get this issue behind us; DNR committed to doing this a year from when it started and we're past that; disappointed with how long this has taken

Thimke: what is "responsiveness comments?" Is that internal vs. external?

Bangert: its a response to internal comments, so people understand what the final draft will be; and also for external staff to see how we've dealt with any changes

Bangert: we will be sharing the draft of the final guidance with externals; I believe the interim guidance has been made available to the Study Group and others

Keyes: we're talking about the Study Group issuing something in December; we've done this before, two years ago; can we get some sort of assurance we're going to see something ahead of time before we put out our recommendations?

Mark Giesfeldt: we should be able to resolve this by the time the Study Group submits its December report to the Legislature

DNR Waste and RR programs agreed to share the schedule/time line for when these tasks will take place, along with a routine monitoring of the schedule, with the Study Group

Department of Commerce

Brownfields Grants (Jason Scott)

Jason Scott gave overview of program

- *will have funding carry through for the sixth year
- *expanded list of eligibles and removed category of specific awards
- *applications for next round will be out in July, have public training in August
- *deadline will be some time in mid- to late September; awards could be in January 2003
- *Brownfields Location Information System (BLIS) is up and running, still only a few sites; please look at submission form and submit sites, and can make copies and give to others

Thimke: is BLIS incorporated with BRRTS?

Scott: BLIS is not connected to BRRTS, but has a link to it; could incorporate that and will look into it with DNR

Mueller: feel like the Study Group isn't asked to review changes to grant program made by Commerce and we'd like to make comments; we'd feel it will help for us to make comments

Scott: definitely a possibility and can check into that; we need to do this in the future

Mueller: there were also ideas from the Study Group for an overall revamping of the Commerce grant programs; wondering what's happened to that?

Scott: yes, there was that discussion but those suggestions were cut internally from lack of support in Commerce

Al Rabin: we are making application changes right now and can discuss those with you during a break

Foss: also, there will be a joint training between Commerce, DNR and other agencies in late summer early fall through video conferencing on all the grants programs to be aware of

V. Federal BF Legislation (Darsi Foss)

Mueller and Stibal: questions about Davis-Bacon and footings and foundations demo as eligible; will work with Darsi on asking EPA (Joe Dufficy) about that

Giesfeldt gave a briefing about his inclusion on federal Superfund subcommittee, which will discuss and come up with suggestions to EPA for where to go with SF program

Thimke: worried about creeping federalism, where do the states have to follow federal guidance, say, as it relates to all the new federal brownfields legislation and subsequent grant funding that's come along

Giesfeldt: hoping that shouldn't happen but it's something to watch

VI. Other Issues

Urban riverway/sediment redevelopment

Thimke: other states seem to have a fairly broad, coordinated program on contaminated sediments and able to get federal grant money for those sites; a lot of our work is focused on the urban waterways; we need to be aware of how to integrate the sediment portion in with the land portion to develop a combined program to help with these urban waterways and possibly get federal funding

Thimke: we often don't think of the water/sed federal dollars 'cuz we're focused mostly on the land

Darsi: does require a more comprehensive approach and we should look at

PCB Soil Rulemaking

Thimke: there seems to be an effort at some level in DNR where they're looking at persistent bioaccumulative toxics, and they seem to be delving into brownfields-related areas without the Study Group knowing about it

Thimke: I serve on a PCB rule-making committee and there is discussion about numbers to be in the rules; I'm asking the DNR staff present here to involve the Study Group and allow us to comment on this

Stibal: how do we comment on that?

Thimke: this group originally started with spreading Fox River contaminated sediments on farm fields; now dealing with land-applying sludge to farm fields; and they started establishing PCB-criteria for soil; Jay Hochmuth, Kevin Kessler, Art Harrington are also involved in this

PECFA and Brownfields

Keyes: revisions to Comm 47, PECFA rules; encountered some interesting situations with brownfields and petroleum, and the Study Group should be thinking about that; whether it is through DNR-Commerce guidance or some other avenue, but brownfields/petroleum issues should be addressed by this group

VII. Additional Item: Study Group – The Future?

[moved from earlier in agenda to end of meeting]

Keyes: what about regional implementation of these brownfields initiatives, we shouldn't lose site of how we need to keep focusing on the implementation issues

Antaramian: we should also really be looking at regional directors and how they perceive the rules and guidances with brownfields as well as the implementation aspects

Keyes: would be interested in hearing what other regions are experiencing and are there problems or issues that are being solved in other regions that we aren't hearing about

Brumberg: I would think you would also want to hear from the RR program managers

Antaramian: I don't have a problem bringing them all in to talk to, just not at the same time

Stibal: how do we do this without getting involved in the administration of the DNR?

Nancy Frank: I would find it more useful to hear from other external folks and their issues to find out what the problems are before we bring in DNR staff

Mueller: there are similar brownfields issues that get worked out differently in different regions of the state, that's just a fact

Antaramian: we need to put together a smaller group of Study Group members interested in this issue and come up with some questions to ask

STUDY GROUP AGREED TO:

- establish a committee to work on implementation issues; anyone interested in serving on this committee should email Andrew Savagian at andrew.savagian@dnr.state.wi.us
- possibly establishing a committee to work on the urban riverway and redevelopment issues and whether we need guidance on this, and to include staff from other parts of the DNR
- not establish subcommittees similar to the ones they've done in the past

Kirch: the WI Commercial Ports Association deals with sedimentation issues and has been asking the DNR Secretary to get port dredging issues elevated, so they may be someone to talk to; Dean Haen from the Port of Green Bay is the contact person there

NEXT MEETING: Study Group agreed to meet some time in mid-August; DNR will send out an email on possible meeting times/places

Adjourn